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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/006,635

11/08/2001

Sam S. Vacek

VAC-1001-US

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7590

06/02/2004

EXAMINER

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HOUSTON, TX 77057-1130

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/006,635

Applicant(s)

VACEK, SAM S.

Examiner

Steve M Varner

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 1 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5 and 7-25 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim 1 is cancelled.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2-5, are rejected under 35 U.S.C. 102(b) as being anticipated by Shingaki.

Regarding claim 5, Shingaki shows at least one outer wall, an internal wall section (22) and an external wall section (51) displaced a predetermined distance from and juxtaposed with the internal wall section (22). Shingaki shows an airflow passage between the internal wall section (22) and the external wall section (51) and an air circulation system (331).

The air circulation system creates a positive air pressure in at least a portion of the structure. (Fig. 1)

Shingaki shows air communication (60) between the outside of the structure and the inside of the structure proximate a base of at least one outer wall. Exhausting air at (60) is a statement of intended use of this point of air communication (Fig. 1), and as such, is not a limitation, which is given patentable weight since it does not recite physical structure. In the instant case the point of air communication makes it possible

Art Unit: 3635

for air to be exhausted through it if the interior had positive air pressure. A known device such as a fan could create this positive pressure.

Regarding claim 2, Shingaki shows the air provided is conditioned (70) (Fig. 1).

Regarding claim 3, Shingaki shows an attic (44) that is in air communication with the airflow passage (42). (Fig. 1)

Regarding claim 4, Shingaki shows a roof or ceiling. (Fig. 1)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-13, are rejected under 35 U.S.C. 103(a) as being unpatentable over Shingaki in view of Ojala.

Regarding claims 7-13, Shingaki shows the basic claimed structure. Shingaki shows a plurality of outer walls and a ceiling or roof to form an enclosed structure. Shingaki does not show the external wall section including an insulating layer, a weather-resistant layer outside of the insulating layer, a sheath inside the insulating layer, the internal section including a liquid barrier, a wall framing system, a first sheathing between the liquid barrier and the wall framing system, and a second sheathing inside of the wall framing system.

Ojala shows the external wall section (88) including an insulating layer (94) and a weather-resistant layer outside of the insulating layer (88). Ojala shows a sheath (70)

inside the insulating layer (88). Ojala shows the internal section (60) including a liquid barrier (92), and a wall framing system (60), A first sheathing between the liquid barrier and the wall framing system, and a second sheathing inside of the wall framing system are well known in the art. (Fig. 3, 4)

It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use the wall system as in Ojala and known in the art in the structure of Shingaki. The wall system of Ojala protects from heat, cold, and moisture as well as gives structural support. These features would be obvious in the structure of Shingaki to protect from heat, cold, moisture, and give the room support.

Claims 14-25. are rejected under 35 U.S.C. 103(a) as being unpatentable over Shingaki in view of Tedman et al.

Regarding claims 14-19, Shingaki shows the basic claimed structure. Shingaki shows air communication between the outside and inside of the structure at a base of at least one outer wall (Fig. 1). Exhausting the air at this point of communication is a statement of intended use and as such, is not a limitation, which is given patentable weight, since it does not recite physical structure. In the instant case the point of air communication makes it possible for air to be exhausted through it if the interior had positive air pressure. A known device such as a fan could create this positive pressure.

. Shingaki does not show a moisture sensor in the airflow passage with a controller and a circuit to interface with the sensor, and a processor. Tedman et al. shows a moisture sensor in the airflow passage with a controller (Abstract). Interfacing circuits and a processor are well known in the art. It would have been obvious to one of

ordinary skill in the art at the time the present invention was made to use the system of Tedman to control the humidity in the airflow passage in Shingaki. This would expedite drying.

Shingaki shows positive pressure in the enclosed structure in the attic (44). (Fig. 1)

Regarding claims 20-25, the claimed methods are the obvious method for inhibiting moisture accumulation using Robert et al.'s modified modular wall and ceiling system

Shingaki shows air communication between the outside and inside of the structure at a base of at least one outer wall. Exhausting the air at this point of communication is a statement of intended use.

Claim Objections

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 2-25 have been considered but are moot in view of the new ground(s) of rejection.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Moras shows a composite vapor barrier panel. Tuggle shows a dryer vent connection. Roberts et al. shows a modular wall and ceiling system.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve M Varner whose telephone number is 703 308-1894. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman can be reached on 703 308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications.

Art Unit: 3635

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1113.

SV
May 24, 2004

A handwritten signature, possibly reading 'N', is written in black ink.A handwritten signature in black ink, appearing to be 'Carl D. Friedman', is written above the printed name.

Carl D. Friedman
Supervisory Patent Examiner
Group 3600